

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

400Q0286

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1040** - 1/30/2009

Introduced by: The Committee on Appropriations at the request of the Department of Health

1 FOR AN ACT ENTITLED, An Act to revise certain license, registration, and inspection fees  
2 related to food service establishments, lodging establishments, and campgrounds.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-18-1 be amended to read as follows:

5 34-18-1. Terms used in this chapter mean:

- 6 (1) "Campground," a plot of ground for public use upon which two or more campsites  
7 are located, established, maintained, advertised, or held out to the public to be a place  
8 where camping units can be located and occupied as temporary living quarters for  
9 children or adults, or both. Camping units are considered to be trailers, tent campers,  
10 campers, tents, recreational park trailers, or other equipment that may be used by the  
11 public at individual campsites located at campgrounds or areas used by the public as  
12 campgrounds;
- 13 (2) "County fair," any fair or celebration operated by any county of this state and under  
14 the supervision of a county fair board, county fair association, or the county board of  
15 commissioners;



1 (3) "Department," the Department of Health;

2 (4) "Food," any raw, cooked, or processed edible substance, beverage, or ingredient used  
3 or intended for use or for sale in whole or in part for human consumption;

4 (5) "Food service establishment," any fixed restaurant; coffee shop; cafeteria; short-order  
5 café; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail  
6 lounge; night club; roadside stand; catering kitchen; delicatessen; bakery; grocery  
7 store; boardinghouse; or similar place in which food or drink is prepared for sale or  
8 for service to the public on the premises or elsewhere with or without charge;

9 (6) "Full-service campground," a campground that provides services to accommodate all  
10 types of campers and camping units. The campground shall have a service building,  
11 an approved water supply, and an approved waste collection system;

12 ~~(7)~~ "Hotel," any hotel, motel, lodge, resort, cabins, building, or buildings with more than  
13 ten rental units which is used to provide sleeping accommodations for a charge to the  
14 public;

15 ~~(8)~~ "Limited-service campground," a campground that offers limited services for self-  
16 contained and independent camping units only. All camping units shall be equipped  
17 with separate potable water and sewage holding tanks on each unit. The campground  
18 shall have an approved water supply and an approved waste collection system;

19 ~~(7)(9)~~ "Lodging establishment," any building or other structure and property or premises  
20 kept, used, maintained, advertised or held out to the public to be a place where  
21 sleeping accommodations are furnished for pay to two or more transient guests. The  
22 term includes hotels, motels, cabins, bed and breakfast establishments, lodges,  
23 vacation home establishments, dude ranches, and resorts;

24 ~~(8)(10)~~ "Mobile food service establishment," any mobile unit in which food or drink

1 is prepared for sale or for service to the public with or without charge;

2 ~~(9)~~(11) "Nonprofit organization," any governmental organization, church, fraternal,  
3 social, school, youth, or other similar organization that is organized and  
4 operated for a common good and not for the specific monetary gain of any  
5 person or persons;

6 ~~(10)~~(12) "Owner," the operator, agent, proprietor, manager, or licensee whether it be a  
7 person, firm, corporation, limited liability company, or association;

8 (13) "Primitive campground," a campground accessible by nonmotorized methods of  
9 travel. The campground shall be equipped with an approved limited waste collection  
10 system;

11 ~~(11)~~(14) "Rental unit," any room, cabin, or other quarters that may be rented to a guest  
12 for sleeping accommodations;

13 ~~(12)~~(15) "Secretary," the secretary of the Department of Health;

14 ~~(13)~~ (16) "Specialty resort," any bed and breakfast establishment, lodge, dude ranch,  
15 resort, building, or buildings used to provide accommodations or recreation  
16 for a charge to the public, with no more than ten rental units for up to an  
17 average of twenty guests per night and in which meals are provided to only the  
18 guests staying at the specialty resort;

19 ~~(14)~~(17) "State Fair," the fair at Huron, South Dakota, operated by the Department of  
20 Agriculture;

21 (18) "Temporary campground," a campground that is operated for a single event such as  
22 a fair, rally, or festival involving the gathering of camping units and is licensed for  
23 a maximum of fourteen consecutive days or less;

24 ~~(15)~~ (19) "Temporary food service establishment," any food service establishment

which operates at a fixed location for a temporary period of time, not to exceed two weeks, in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering;

~~(16)~~(20) "Transient guest," any person who resides in a lodging establishment less than four consecutive calendar weeks;

~~(17)~~(21) "Vacation home establishment," any home, cabin, or similar building that is rented, leased, or furnished in its entirety to the public on a daily or weekly basis for more than fourteen days in a calendar year and is not occupied by an owner or manager during the time of rental. This term does not include a bed and breakfast establishment as defined in subdivision 34-18-9.1(1);

(22) "Water recreational facility," any artificial basin of water located at a facility licensed pursuant to chapter 34-18 constructed, installed, modified, or improved for the purpose of swimming, wading, diving, or recreation, including swimming pools, spas, hot tubs, and water slides.

Section 2. That § 34-18-9.3 be amended to read as follows:

34-18-9.3. Any bed and breakfast establishment operating in this state shall register with the Department of Health. A one-time registration fee of ~~twenty-five~~ thirty-eight dollars is required before a bed and breakfast establishment may be operated. The fee shall be placed in the Department of Health fee account. Any change in ownership or location of the bed and breakfast establishment requires a new registration on a form provided by the department. The form shall be submitted to the department along with payment of a ~~twenty-five~~ thirty-eight dollar registration fee. The department may investigate any complaint made against any bed and breakfast establishment.

Section 3. That § 34-18-10 be amended to read as follows:

34-18-10. Every owner of a lodging establishment, campground, food service, or mobile food service establishment shall annually secure a license on or before the first day of ~~July~~ the license renewal period or before beginning the operation of the establishment or campground after making proper application on a form provided by the department, accompanied by the proper license fee. The initial application form shall be verified under oath and shall contain the following:

- (1) The name and address of the establishment or campground and previous name, if changed due to a change in ownership;
- (2) The name, address, and telephone number of the owner and operator of the establishment or campground;
- (3) A specification of the type of license applied for;
- (4) If for a lodging establishment license, a description of the size of the establishment and whether it has a ~~swimming pool~~ water recreational facility;
- (5) If for a campground license, a description of the size and type of the campground and whether it has a ~~swimming pool~~ water recreational facility;
- (6) If for a food service or mobile food service establishment license, a description of the size of the establishment;
- (7) A license fee schedule; and
- (8) A certification of consent to allow inspections of the establishment or campground by authorized department inspectors during business hours upon the presentation of identification.

Section 4. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as follows:

A one-time initial license fee of one hundred dollars shall be charged to any new food

service establishment, lodging establishment, or campground upon initial licensure.

Section 5. That § 34-18-11 be amended to read as follows:

34-18-11. The annual license fee for a food service establishment or a lodging establishment shall be ~~established by the Department of Health through rules adopted pursuant to chapter 1-26~~ as follows:

- (1) Food service establishment with no seating, ninety dollars;
- (2) Food service establishment with one to fifty seats, inclusive, one hundred twenty dollars;
- (3) Food service establishment with fifty-one to one hundred seats, inclusive, one hundred eighty dollars;
- (4) Food service establishment with one hundred one or more seats, two hundred twenty-five dollars;
- (5) Vacation home establishment, forty-five dollars;
- (6) Specialty resort, forty-five dollars; and
- (7) Hotel, two dollars and twenty-five cents per unit, with a minimum of forty-five dollars.

Section 6. That § 34-18-11.1 be amended to read as follows:

34-18-11.1. The annual license fee for a campground shall be ~~established by the Department of Health through rules adopted pursuant to chapter 1-26~~ as follows:

- (1) Full-service campground;
  - (a) Two to twenty-five campsites, inclusive, seventy-five dollars;
  - (b) Twenty-six to one hundred campsites, inclusive, one hundred thirteen dollars;
  - (c) One hundred one to two hundred campsites, inclusive, one hundred fifty dollars;

1           (d) Two hundred one to three hundred campsites, inclusive, one hundred eighty-  
2           eight dollars;

3           (e) Three hundred one or more campsites, two hundred twenty-five dollars;

4           (2) Limited-service campground, one hundred thirteen dollars;

5           (3) Temporary campground, seventy-five dollars; and

6           (4) Primitive campground, seventy-five dollars.

7           Section 7. That § 34-18-13 be amended to read as follows:

8           34-18-13. A ~~reduced prorated~~ license fee ~~in the amount of one-half the applicable annual~~  
9 ~~license fee~~ shall be charged for each new lodging ~~establishments, campgrounds~~ establishment,  
10 campground, and food service ~~establishments~~ establishment beginning operations after the first  
11 day of ~~January each year~~ the license renewal period and for changes in ownership and location  
12 of ~~such any~~ existing ~~establishments~~ establishment and ~~campgrounds~~ campground after the first  
13 day of ~~January each year~~ the license renewal period. To implement this section, the department  
14 may promulgate rules pursuant to chapter 1-26.

15           Section 8. That § 34-18-16 be amended to read as follows:

16           34-18-16. The annual license fee for a mobile food service establishment shall be  
17 ~~twenty-five~~ thirty-eight dollars.

18           Section 9. That § 34-18-17 be amended to read as follows:

19           34-18-17. ~~It shall be the duty of each~~ Each owner of a temporary food service establishment  
20 ~~to shall~~ secure a license before beginning the operation of ~~such~~ the establishment after making  
21 proper application on a form provided by the department and accompanied by the proper license  
22 fee. The license fee for a temporary food service establishment shall be ~~twenty-five~~ thirty-eight  
23 ~~dollars. Those businesses~~ Any business which ~~offer~~ offers food at no cost or consideration not  
24 more than three times in any calendar year and no more than three consecutive days at any given

1 time in conjunction with a grand opening, promotion, or special product showing ~~shall be~~ is  
2 exempt from the licensing and license fee provisions of this chapter. Such exemption from the  
3 licensing and license fee provisions does not release the owner of ~~such establishments~~ the  
4 establishment from compliance with the public health requirements of this chapter and the rules  
5 ~~and regulations of the department. After having satisfied himself~~ promulgated pursuant to this  
6 chapter. If the secretary is satisfied that such the temporary food service establishment is in  
7 compliance with this chapter and the rules ~~and regulations of the department~~ promulgated  
8 pursuant to this chapter, the secretary of health shall issue a license for thirty days from the date  
9 of issuance.

10 Section 10. That § 34-18-25.1 be amended to read as follows:

11 34-18-25.1. The department shall, at least annually, make one inspection of ~~every~~ each  
12 lodging establishment and campground and, at least twice annually, of ~~every~~ each food service  
13 establishment or mobile food service licensed under this chapter to ascertain that ~~such the~~  
14 lodging establishment, campground, food service establishment, or mobile food service is in  
15 compliance with this chapter and the rules promulgated ~~thereunder~~ pursuant to this chapter. The  
16 department shall charge an inspection fee of twenty-five dollars for each inspection. The  
17 inspection shall take place during business hours and shall be conducted by an authorized  
18 department inspector after presentation of identification. The scope of the inspection is limited  
19 to those areas provided for in this chapter and the rules promulgated ~~thereunder~~ pursuant to this  
20 chapter.

21 Section 11. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as  
22 follows:

23 Each facility licensed pursuant to chapter 34-18 with one water recreational facility shall be  
24 charged an annual fee of forty dollars. Each facility licensed pursuant to chapter 34-18 with



1 more than one water recreational facility shall be charged an annual fee of sixty-five dollars.